

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:17-cv-00492-TSC**

NATIONAL SECURITY ARCHIVE v. DEPARTMENT OF
DEFENSE

Assigned to: Judge Tanya S. Chutkan
Cause: 05:552 Freedom of Information Act

Date Filed: 03/17/2017

Jury Demand: None

Nature of Suit: 895 Freedom of
Information Act

Jurisdiction: U.S. Government Defendant

Plaintiff

NATIONAL SECURITY ARCHIVE

represented by **Clifford M. Sloan**
SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7040
Fax: (202) 661-8340
Email: cliff.sloan@skadden.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Melissa R. Smith
SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7591
Fax: (202) 661-0591
Email: melissa.smith@skadden.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mitchell S. Ettinger
SKADDEN, ARPS, SLATE, MEAGHER
& FLOM LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7444
Fax: (202) 661-8214
Email: mettinge@skadden.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

DEPARTMENT OF DEFENSE

represented by **Melanie Dyani Hendry**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2510
Fax: (202) 252-2599
Email: melanie.hendry2@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
------------	---	-------------

03/17/2017	<u>1</u>	COMPLAINT for Injunctive Relief against All Defendants (Filing fee \$ 400 receipt number 0090-4880521) filed by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Summons FOIA Summons to the US Department of Defense)(Sloan, Clifford) (Entered: 03/17/2017)
03/17/2017		Case Assigned to Judge Tanya S. Chutkan. (sth) (Entered: 03/20/2017)
03/20/2017	<u>2</u>	SUMMONS (1) Issued Electronically as to DEPARTMENT OF DEFENSE. (Attachments: # <u>1</u> Summons)(sth) (Entered: 03/20/2017)
03/20/2017	<u>3</u>	REQUEST FOR SUMMONS TO ISSUE to Jeff Sessions, U.S. Attorney General) filed by NATIONAL SECURITY ARCHIVE.(Sloan, Clifford) (Entered: 03/20/2017)
03/20/2017	<u>4</u>	REQUEST FOR SUMMONS TO ISSUE (to Channing D. Phillips, U.S. Attorney's Office) filed by NATIONAL SECURITY ARCHIVE.(Sloan, Clifford) (Entered: 03/20/2017)
03/20/2017	<u>5</u>	ENTERED IN ERROR.....REQUEST FOR SUMMONS TO ISSUE (to Lee. J. Lofthus, Assistant U.S. Attorney General for Administration) filed by NATIONAL SECURITY ARCHIVE.(Sloan, Clifford) Modified on 3/20/2017 (sth). (Entered: 03/20/2017)
03/20/2017	<u>6</u>	SUMMONS (2) Issued Electronically as to U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Summons, # <u>2</u> Summons)(sth) (Entered: 03/20/2017)
04/13/2017	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 3/27/2017. Answer due for ALL FEDERAL DEFENDANTS by 4/26/2017. (Sloan, Clifford) (Entered: 04/13/2017)
04/13/2017	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 3/31/2017. (Sloan, Clifford) (Entered: 04/13/2017)
04/13/2017	<u>9</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF DEFENSE served on 3/24/2017 (Sloan, Clifford) (Entered: 04/13/2017)
04/24/2017	<u>10</u>	NOTICE of Appearance by Melanie Dyani Hendry on behalf of DEPARTMENT OF DEFENSE (Hendry, Melanie) (Entered: 04/24/2017)
04/24/2017	<u>11</u>	ANSWER to Complaint by DEPARTMENT OF DEFENSE.(Hendry, Melanie) (Entered: 04/24/2017)
04/25/2017		MINUTE ORDER: Before the Court in this FOIA case are a complaint and an answer. The requirements of LCvR 16.3 and Rule 26(f) of the Federal Rules of Civil procedure appear to be inapplicable. IT IS HEREBY ORDERED that the parties shall meet and confer and propose a schedule for proceeding in this matter. The schedule shall address the status of Plaintiff's FOIA request, the anticipated number of documents responsive to Plaintiff's FOIA request, the anticipated date(s) for release of the documents requested by Plaintiff, whether a motion for an Open America stay is likely in this case, whether a Vaughn index will be required in this case, whether and when either party anticipates filing a dispositive motion, and any other pertinent issues. The parties shall file a joint status report that addresses these issues and that contains a proposed schedule and proposed order not later than 5/12/17. Signed by Judge Tanya S. Chutkan on 4/25/17. (DJS) (Entered: 04/25/2017)
04/25/2017		Set/Reset Deadlines: Joint Status Report due by 5/12/2017. (tb) (Entered: 04/25/2017)
05/12/2017	<u>12</u>	Joint STATUS REPORT by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Plaintiff's Proposed Order, # <u>2</u> Defendant's Proposed Order)(Sloan, Clifford) (Entered: 05/12/2017)
06/21/2017		MINUTE ORDER: Having considered the parties' Joint Status Report <u>12</u> , it is hereby ordered that the United States Department of Defense shall make an interim release of documents to Plaintiff by June 30, 2017. The parties shall file a joint status report and proposed order by July 14, 2017. Signed by Judge Tanya S. Chutkan on 6/21/17. (DJS) (Entered: 06/21/2017)

06/21/2017		Set/Reset Deadlines: DOD shall make interim release of documents to plaintiff by 6/30/2017. Joint Status Report due by 7/14/2017. (tb) (Entered: 06/21/2017)
07/14/2017	<u>13</u>	Joint STATUS REPORT by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Plaintiff's Proposed Order, # <u>2</u> Defendant's Proposed Order)(Sloan, Clifford) (Entered: 07/14/2017)
07/17/2017		MINUTE ORDER: A scheduling conference is hereby set for 1:45 p.m. on 8/1/17 in Courtroom 2. Signed by Judge Tanya S. Chutkan on 7/17/17. (DJS) (Entered: 07/17/2017)
07/26/2017		MINUTE ORDER: The Scheduling Conference previously set for 8/1/17 is hereby vacated. The parties shall file a joint notice by 7/31/17 proposing three alternative dates/times for the Scheduling Conference. Signed by Judge Tanya S. Chutkan on 7/26/17. (DJS) (Entered: 07/26/2017)
07/27/2017		Set/Reset Deadlines: Joint Notice proposing three alternative dates/times due by 7/31/2017. (tb) (Entered: 07/27/2017)
07/31/2017	<u>14</u>	NOTICE (<i>Joint Notice</i>) by NATIONAL SECURITY ARCHIVE re Order, (Sloan, Clifford) (Entered: 07/31/2017)
08/02/2017		MINUTE ORDER: The previously vacated Scheduling Conference is hereby reset for 9/13/17 at 10:00 a.m. in Courtroom 2. Signed by Judge Tanya S. Chutkan on 8/2/17. (DJS) (Entered: 08/02/2017)
08/03/2017		Set/Reset Hearings: Scheduling Conference reset for 9/13/2017 at 10:00 AM in Courtroom 2 before Judge Tanya S. Chutkan. (tb) (Entered: 08/03/2017)
08/04/2017		MINUTE ORDER: Due to an unanticipated scheduling conflict, the Scheduling Conference previously set for 9/13/2017 is hereby rescheduled for 9/7/17 at 10:00 a.m. in Courtroom 2. Signed by Judge Tanya S. Chutkan on 8/4/17. (DJS) (Entered: 08/04/2017)
09/07/2017		Minute Entry for proceedings held before Judge Tanya S. Chutkan: Status Conference held on 9/7/2017. The parties are directed to file an updated Status Report by 1/8/2018. A further Status Conference is set for 1/11/2018 at 10:00 AM in Courtroom 2 before Judge Tanya S. Chutkan. (Court Reporter: Janice Dickman) (jth) (Entered: 09/07/2017)
09/08/2017	<u>15</u>	NOTICE of Appearance by Melissa R. Smith on behalf of NATIONAL SECURITY ARCHIVE (Smith, Melissa) (Entered: 09/08/2017)
09/21/2017	<u>16</u>	TRANSCRIPT OF PROCEEDINGS before Judge Tanya S. Chutkan held on September 7, 2017; Page Numbers: 1–18. Date of Issuance: September 20, 2017. Court Reporter/Transcriber Janice Dickman, Telephone number 202–354–3267, Transcripts may be ordered by submitting the Transcript Order Form<P></P><P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.<P></P>Redaction Request due 10/12/2017. Redacted Transcript Deadline set for 10/22/2017. Release of Transcript Restriction set for 12/20/2017.(Dickman, Janice) (Entered: 09/21/2017)
01/08/2018	<u>17</u>	Joint STATUS REPORT and Request to Reschedule Status Conference by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Text of Proposed Order – Plaintiff, # <u>2</u> Text of Proposed Order – Defendant)(Sloan, Clifford) (Entered: 01/08/2018)
01/08/2018	18	Joint MOTION to Continue Status Conference by DEPARTMENT OF DEFENSE, NATIONAL SECURITY ARCHIVE. (See Docket Entry <u>17</u> to view document).

		(znmw) (Entered: 01/09/2018)
01/09/2018		MINUTE ORDER" Granting 18 Motion to Continue. The Status Conference previously set for 1/11/18 is hereby rescheduled for 2/1/18 at 10:30 AM in Courtroom 9. Signed by Judge Tanya S. Chutkan on 1/9/18. (DJS) (Entered: 01/09/2018)
01/30/2018	<u>19</u>	NOTICE of Appearance by Mitchell S. Ettinger on behalf of NATIONAL SECURITY ARCHIVE (Ettinger, Mitchell) (Entered: 01/30/2018)
02/01/2018		MINUTE ORDER: By 2/2/18 the parties shall file a notice providing the court with three dates/times they are available to reschedule the status conference. Signed by Judge Tanya S. Chutkan on 2/1/18. (DJS) (Entered: 02/01/2018)
02/02/2018		Set/Reset Deadlines: Notice regarding rescheduled hearing due by 2/2/2018. (tb) (Entered: 02/02/2018)
02/02/2018	<u>20</u>	WITHDRAWN PURSUANT TO NOTICE FILED 2/2/2018.....NOTICE (<i>Joint Notice</i>) by NATIONAL SECURITY ARCHIVE re Order (Ettinger, Mitchell) Modified on 2/5/2018 (znmw). (Entered: 02/02/2018)
02/02/2018		MINUTE ORDER: The Scheduling Conference in this matter is hereby rescheduled for February 6, 2018 at 2:00 p.m. in Courtroom 9. Signed by Judge Tanya S. Chutkan on 2/2/18. (DJS) (Entered: 02/02/2018)
02/02/2018	<u>21</u>	NOTICE of Withdrawal by NATIONAL SECURITY ARCHIVE re <u>20</u> Notice (Other) (Ettinger, Mitchell) (Entered: 02/02/2018)
02/02/2018	<u>22</u>	NOTICE (<i>Plaintiff's Amended Notice</i>) by NATIONAL SECURITY ARCHIVE re Order (Ettinger, Mitchell) (Entered: 02/02/2018)
02/05/2018		Set/Reset Hearings: Scheduling Conference set for 2/6/2018 at 02:00 PM in Courtroom 9 before Judge Tanya S. Chutkan. (tb) (Entered: 02/05/2018)
02/06/2018		Set/Reset Hearings: Scheduling Conference reset for 2/6/2018 at 12:30 PM in Courtroom 9 before Judge Tanya S. Chutkan. (tb) (Entered: 02/06/2018)
02/06/2018		Minute Entry: Scheduling Conference held on 2/6/2018 before Judge Tanya S. Chutkan: Scheduling Order forthcoming. (Court Reporter Bryan Wayne) (tb) (Entered: 02/06/2018)
02/07/2018	<u>23</u>	<p>TRANSCRIPT OF SCHEDULING CONFERENCE before Judge Tanya S. Chutkan held on February 6, 2018. Page Numbers: 1–7. Date of Issuance: February 7, 2018. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 2/28/2018. Redacted Transcript Deadline set for 3/10/2018. Release of Transcript Restriction set for 5/8/2018.(Wayne, Bryan) (Entered: 02/07/2018)</p>
04/05/2018		MINUTE ORDER: The parties shall file a joint status report and proposed order by 8/7/18. Signed by Judge Tanya S. Chutkan on 4/5/18. (DJS) (Entered: 04/05/2018)
04/05/2018		MINUTE ORDER: Having considered the parties' joints status report <u>7</u> , it is hereby ordered that the parties shall file another joint report and proposed order by May 8, 2018. Signed by Judge Tanya S. Chutkan on 4/5/18. (DJS) (Entered: 04/05/2018)

04/05/2018		MINUTE ORDER: The court's Minute Order setting a 5/8/18 due date for the parties' joint status report is hereby VACATED due to clerical error. Signed by Judge Tanya S. Chutkan on 4/5/18. (DJS) (Entered: 04/05/2018)
04/06/2018		Set/Reset Deadlines: Joint Status Report and Proposed Order due by 5/8/2018. (tb) (Entered: 04/06/2018)
05/08/2018	<u>24</u>	Joint STATUS REPORT by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Text of Proposed Order Plaintiff's Proposed Order, # <u>2</u> Text of Proposed Order Defendant's Proposed Order)(Sloan, Clifford) (Entered: 05/08/2018)
08/22/2018		MINUTE ORDER: Having considered the parties' joint status report <u>24</u> , it is hereby ordered that the parties shall submit another joint report and proposed order by 11/16/18. Signed by Judge Tanya S. Chutkan on 8/22/18. (DJS) (Entered: 08/22/2018)
08/22/2018		Set/Reset Deadlines: Joint Status Report due by 11/16/2018. (tb) (Entered: 08/22/2018)
11/16/2018	<u>25</u>	Joint STATUS REPORT by NATIONAL SECURITY ARCHIVE. (Attachments: # <u>1</u> Plaintiff's Proposed Order, # <u>2</u> Defendant's Proposed Order)(Sloan, Clifford) (Entered: 11/16/2018)
11/27/2018		MINUTE ORDER: Having considered the parties' Joint Status Report <u>25</u> , it is hereby ordered that on or before December 30, 2018, the United States Department of Defense shall make another interim release of documents to Plaintiff, with subsequent productions every two months before the end of the month. The Department of Defense will produce an index of all withheld processed pages in this corpus along with the basis for that withholding at the end of production, as discussed at the February 6, 2018 status conference. The parties will file another Joint Status Report and Proposed Order by May 30, 2019. Signed by Judge Tanya S. Chutkan on 11/27/18. (DJS) (Entered: 11/27/2018)